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TAGS: SNAR, LEG

SUBJECT: HAWKINS-GILMAN NARCOTICS CONTROL AMENDMENT TO
FOREIGN ASSISTANCE ACT

1. CONGRESS HAS APPROVED AND THE PRESIDENT IS EXPECTED TO SIGN A 1984 STATE DEPARTMENT AUTHORIZATION BILL. THE SENATE AND HOUSE AGREED, IN THE ABSENCE OF A FOREIGN ASSISTANCE AUTHORIZATION BILL, TO INCLUDING CERTAIN FOREIGN ASSISTANCE ACT AMENDMENTS IN THE STATE DEPARTMENT BILL. THESE INCLUDE AN IMPORTANT NARCOTICS AMENDMENT WHICH REQUIRES THE DEPARTMENT TO PRODUCE A COMPREHENSIVE ANALYSIS OF NARCOTICS PRODUCTION AND CONTROL ACTIVITIES BY FEBRUARY 1, 1984.

2. THE ANTICIPATION IS THAT THIS AMENDMENT PRESAGES A MAJOR CONFRONTATION WITH SOME MEMBERS OF CONGRESS IN THE 1984 SESSION OVER PRODUCTION ESTIMATES AND REDUCTION TARGETS. THE FURTHER ANTICIPATION IS THAT SOME MEMBERS WILL ATTEMPT TO FORCE THE SUSPENSION OF VIRTUALLY ALL FORMS OF USG ASSISTANCE TO COUNTRIES WHICH THEY DEEM NOT TO BE TAKING ADEQUATE STEPS TO PREVENT ILLICIT NARCOTICS FROM ENTERING THE US.

3. WHILE MORE PUNITIVE LEGISLATION WAS AVERTED, AND THIS AMENDMENT REPRESENTS A COMPROMISE UNDER WHICH LESS HARSH PROVISIONS WERE ACCEPTED, PROPONENTS OF NARCOTICS-RELATED ECONOMIC SANCTIONS ARE UNQUESTIONABLY BOLSTERED BY THE FACT THAT A STRONG AMENDMENT PASSED THE SENATE 96-0. THE SENATE-HOUSE CONFERENCE REPORT NOTES THAT THE COMPROMISE AMENDMENT IS LESS STRINGENT THAN THE SENATE PROPOSAL, AND THE REPORT WARNS THAT "IF THE PRESIDENT ABUSES THE FLEXIBILITY PROVIDED IN THE SUBSTITUTE PROVISION, A MORE RIGID REQUIREMENT REGARDING REDUCTIONS IN NARCOTICS PRODUCTION CAN BE EXPECTED IN THE FUTURE."

4. THE AMENDMENT BY SENATE-HOUSE CONFEREES WAS A COMPROMISE BETWEEN BILLS OFFERED BY SENATORS HAWKINS, PERCY AND OTHERS AND REPS. GILMAN AND OTHERS. THE FINAL VERSION IS NOW REFERRED TO AS THE HAWKINS-GILMAN AMENDMENT. WHILE SEVERAL ONEROUS PROVISIONS IN THE INITIAL HAWKINS BILL WERE REJECTED BY CONFEREES DURING THE COMPROMISE, THE AMENDMENT AS FINALLY ADOPTED STILL CAUSES SEVERAL PROBLEMS FOR THE DEPARTMENT.

4.A. HAWKINS-PERCY AMENDMENT. THIS AMENDMENT WOULD HAVE REQUIRED (1) THAT THE PRESIDENT DETERMINE NARCOTICS PRODUCTION CONTROL ESTIMATES FOR EACH SOURCE COUNTRY RECEIVING USG ASSISTANCE, AND DETERMINE THE MAXIMUM AMOUNT OF REDUCTION ACHIEVABLE DURING A GIVEN FISCAL YEAR, AND REPORT ON ACTUAL REDUCTIONS ACHIEVED; AND (2) THAT STATE CONSULT WITH SENATE FOREIGN RELATIONS AND HOUSE FOREIGN AFFAIRS COMMITTEES ON THESE PROJECTED REDUCTIONS IN PRODUCTION, AND (3) THAT MOST U.S. ECONOMIC AND MILITARY ASSISTANCE AND MDB LOAN POSITIONS BE LINKED TO MEETING SUCH CONTROL OBJECTIVES OR REDUCTION TARGETS.

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IF THE REPORTS SHOWED THAT REDUCTION TARGETS WERE NOT MET, SUCH ASSISTANCE WOULD HAVE BEEN AUTOMATICALLY SUSPENDED UNLESS THE PRESIDENT GAVE A WAIVER. THIS AMENDMENT WAS APPROVED 96-0 ON OCTOBER 19 AS A SENATE AMENDMENT TO THE STATE DEPARTMENT AUTHORIZATION BILL FOR 1984. THE AMENDMENT WAS SPONSORED BY SENS. HAWKINS, PERCY, BIDEN, COCHRAN, D'AMATO, DECONCINI, HUMPHREY, MOYNIHAN PELL, ABDNOR, MURKOWSKI AND WILSON. THE DEPARTMENT WAS NOT GIVEN AN OPPORTUNITY TO TESTIFY OR CONSULT ON THIS AMENDMENT BEFORE ITS UNEXPECTED CONSIDERATION AND PASSAGE, BUT, VIGOROUSLY OPPOSED THE AMENDMENT AFTER IT PASSED THE SENATE AND WAS PRESENTED TO THE JOINT SENATE-HOUSE CONFERENCE.

4.B. THE GILMAN AMENDMENT. AS AN ALTERNATIVE TO THE HAWKINS-PERCY AMENDMENT, THE DEPARTMENT SAID IT WOULD PREFER ADOPTION OF THIS AMENDMENT, WHICH WAS APPROVED BY THE HOUSE FOREIGN AFFAIRS COMMITTEE ON MAY 3, 1983. THIS AMENDMENT WAS SPONSORED BY REPS. GILMAN, RANGEL, ZABLOCKI AND OTHERS.

5. THE COMPROMISE AMENDMENT ADOPTED BY THE CONFEREES MODIFIED THE SENATE'S PROPOSED REQUIREMENTS FOR CROP REDUCTION ESTIMATES, AND DELETED THE PROPOSED AUTOMATIC LINKING OF ECONOMIC, MILITARY AND OTHER USG ASSISTANCE TO A COUNTRY'S MEETING THOSE REDUCTION TARGETS. BUT, THE ADOPTED AMENDMENT STILL CONTAINS PROVISIONS WHICH GO WELL BEYOND THE REQUIREMENTS THE DEPARTMENT HAD AGREED TO MEET UNDER THE GILMAN AMENDMENT.

7. [6. WHILE NOT ASKED FOR A FINAL POSITION BY THE CONFEREES, THE DEPARTMENT WOULD HAVE OPPOSED THE COMPROMISE. BUT, GIVEN THE PROBABILITY OF PRESIDENTIAL APPROVAL OF THE STATE AUTHORIZATION BILL WHICH INCLUDES THIS NARCOTICS AMENDMENT AMONG OTHER PROVISIONS IMPORTANT TO THE DEPARTMENT AND ADMINISTRATION, THE FOCUS NOW IS ON HOW TO IMPLEMENT THIS LEGISLATION.

7. THE COMPROMISE AMENDMENT IS BEST UNDERSTOOD WITHIN THE CONTEXT OF EXISTING NARCOTICS LEGISLATION. FIRST, THE FOREIGN ASSISTANCE ACT (FAA) NOW DIRECTS THE PRESIDENT TO SUSPEND ECONOMIC AND MILITARY ASSISTANCE TO ANY COUNTRY WHICH HE DETERMINES HAS NOT TAKEN ADEQUATE STEPS TO PREVENT THE FLOW OF ILLICIT DRUGS (PRODUCED, PROCESSED OR TRANSPORTED THROUGH SUCH COUNTRY) FROM ENTERING THE UNITED STATES. SECOND, THE FAA NOW REQUIRES THE PRESIDENT TO SUBMIT AN ANNUAL REPORT ON FEBRUARY 1 OF EACH YEAR ON THE STATUS OF US EFFORTS TO PREVENT ILLICIT PRODUCTION AND TO INTERDICT TRAFFICKING IN NARCOTICS. THE COMPROMISE AMENDMENT EXPANDS BOTH OF THESE REQUIREMENTS.

8. REPORTING REQUIREMENTS. THE AMENDMENT REVISES REPORTING REQUIREMENTS RELATED TO THE SUBMISSION OF AN ANNUAL REPORT ON FEBRUARY 1 OF EACH YEAR. INTER ALIA, THIS SECTION SERVES THE IMPORTANT PURPOSE OF CLARIFYING THAT RESPONSIBILITY IN THE FEDERAL GOVERNMENT FOR INTERNATIONAL NARCOTICS CONTROL, INCLUDING POLICY DEVELOPMENT, COORDINATION OF INTERNATIONAL ACTIVITIES, REPRESENTATIONS TO UN AGENCIES, AND PROGRAM FUNCTIONS, IS VESTED IN THE DEPARTMENT OF STATE.

8.A. THE AMENDMENT CONTINUES THE REQUIREMENT THAT THE REPORT DESCRIBE THE POLICIES, AGREEMENTS AND PROGRAMS WE HAVE ADOPTED, FOR THE FISCAL YEAR JUST ENDED, FOR THE CURRENT FISCAL YEAR, AND FOR THE NEXT FISCAL YEAR. THUS, THE REPORT DUE FEBRUARY 1, 1984, WILL COVER FY 1983, 1984, AND 1985 (PROJECTIONS).

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8.B. THE ADD-ONS INCLUDE REQUIREMENTS THAT THE REPORT: DESCRIBE USG ACTIVITIES IN INTERNATIONAL FINANCIAL INSTITUTIONS TO COMBAT ENTRY OF ILLICIT DRUGS INTO THE US; AND IDENTIFY THOSE COUNTRIES WHICH ARE THE "SIGNIFICANT" DIRECT OR INDIRECT SOURCES OF ILLICIT NARCOTIC AND PSYCHOTROPIC DRUGS AND OTHER CONTROLLED SUBSTANCES "SIGNIFICANTLY" AFFECTING THE US. BY THIS DEFINITION, THE REPORT WILL INCLUDE INFORMATION ON COUNTRIES IN WHICH ILLICIT NARCOTICS AND OTHER DRUGS ARE CULTIVATED, PRODUCED, REFINED, AND/OR TRANSHIPPED.

8.C. FOR EACH SUCH COUNTRY MEETING THIS SIGNIFICANCE TEST, WE MUST PROVIDE (A) A DETAILED STATUS REPORT ON THE ILLICIT DRUGS ETC. (NARCOTIC AND PSYCHOTROPIC DRUGS AND OTHER CONTROLLED SUBSTANCES) CULTIVATED, PRODUCED, PROCESSED IN OR TRANSPORTED THROUGH THE COUNTRY, NOTING SIGNIFICANT CHANGES IN CONDITIONS, SUCH AS INCREASES OR DECREASES IN THE ILLICIT CULTIVATION AND MANUFACTURE OF AND TRAFFIC IN SUCH DRUGS AND SUBSTANCES; (B) A DESCRIPTION OF THE NARCOTICS-RELATED AND OTHER USG ASSISTANCE FOR THE THREE FISCAL YEAR PERIODS UNDER REPORT, AND, AN ANALYSIS OF THE IMPACT THAT EACH SUCH KIND OF ASSISTANCE HAS HAD OR IS EXPECTED TO HAVE ON THE ILLICIT CULTIVATION, MANUFACTURE, AND TRAFFIC IN NARCOTIC DRUGS ETC.; AND (C) A DESCRIPTION OF THE PLANS, PROGRAMS, AND TIMETABLES ADOPTED BY SUCH COUNTRY FOR THE PROGRESSIVE ELIMINATION OF THE ILLICIT CULTIVATION OF SUCH DRUGS, AND A DISCUSSION OF THE ADEQUACY OF THE "LEGAL AND LAW ENFORCEMENT MEASURES" TAKEN AND THE ACCOMPLISHMENTS ACHIEVED IN ACCORD WITH THESE PLANS.

8.D. A VARIATION ON THE EARLIER HAWKINS "QUOTAS" HAS BEEN ADDED TO THE REPORTING REQUIREMENT. UP TO THIS POINT, REPORTING REQUIREMENTS (A,B, AND C ABOVE) ARE IMPOSED FOR THOSE COUNTRIES WHICH ARE THE "SIGNIFICANT" SOURCES OF ILLICIT DRUGS "SIGNIFICANTLY" AFFECTING THE US. THE MODIFIED HAWKINS PROVISION ON PRODUCTION ESTIMATES (8.E. BELOW) APPLIES TO THOSE COUNTRIES WHICH THE AMENDMENT DEFINES AS A "MAJOR" ILLICIT DRUG PRODUCING COUNTRY (A COUNTRY PRODUCING FIVE METRIC TONS OR MORE OF OPIUM OR OPIUM DERIVATIVE DURING A FISCAL YEAR, OR PRODUCING FIVE HUNDRED METRIC TONS OR MORE OF COCA OR MARIJUANA DURING A FISCAL YEAR). THIS PROVISION APPLIES ONLY TO COUNTRIES WHICH RECEIVE USG ASSISTANCE.

8.E. FOR EACH SUCH "MAJOR" COUNTRY FOR WHICH THE PRESIDENT PROPOSES TO FURNISH USG ASSISTANCE FOR THE NEXT FISCAL YEAR, THE REPORT SHALL CONTAIN THE PRESIDENT'S DETERMINATION OF THE MAXIMUM REDUCTIONS IN ILLICIT DRUG PRODUCTION WHICH ARE ACHIEVABLE DURING THE NEXT FISCAL YEAR.

8.F. SUCH DETERMINATION SHALL BE BASED UPON (A) THE MEASURES WHICH THE COUNTRY IS TAKING OR HAS PLANNED FOR THE NEXT FISCAL YEAR, TO PREVENT NARCOTIC DRUGS ETC. FROM BEING CULTIVATED, PRODUCED, OR PROCESSED ILLICITLY, IN WHOLE OR IN PART IN SUCH COUNTRY, FROM BEING TRANSPORTED THROUGH SUCH COUNTRY TO USG PERSONNEL OR FROM ENTERING THE US UNLAWFULLY, AND (B) THOSE MEASURES LISTED IN 8.C.

8.H. FOR "MAJOR" COUNTRIES WHICH RECEIVED USG ASSISTANCE IN THE PRECEDING FISCAL YEAR (I.E., FY 83 FOR THE REPORT DUE NEXT FEBRUARY 1), THE REPORT WILL NOTE THE ACTUAL REDUCTIONS IN ILLICIT DRUG PRODUCTION ACHIEVED DURING THAT YEAR.

8.I. THE REPORTING SUBSECTION FURTHER REQUIRES THAT THE ASSISTANT SECRETARY FOR INTERNATIONAL NARCOTICS MATTERS AND REPRESENTATIVES FROM THE AGENCY FOR INTERNATIONAL

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DEVELOPMENT, AND OTHER AGENCIES MEET WITH THE FOREIGN RELATIONS AND FOREIGN AFFAIRS COMMITTEES TO REVIEW WORLDWIDE PRODUCTION, USG ASSISTANCE TO "MAJOR" ILLICIT DRUG PRODUCING COUNTRIES, AND US CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS, AND THE EFFECT THE LATTER TWO EFFORTS ARE HAVING ON PREVENTING THE ENTRY OF ILLICIT NARCOTICS AND OTHER DRUGS INTO THE UNITED STATES. FOR THE PURPOSES OF SUCH CONSULTATIONS, THE ADMINISTRATION IS EXPECTED TO PROVIDE, WITH RESPECT TO "MAJOR" ILLICIT DRUG PRODUCING COUNTRIES WHICH THE PRESIDENT IS PROPOSING TO FURNISH ASSISTANCE TO IN THE NEXT FISCAL YEAR: (1) A DESCRIPTION OF THE NATURE OF THE ILLICIT DRUG PRODUCTION PROBLEM; (2) AN ANALYSIS OF THE CLIMATIC, GEOGRAPHIC, POLITICAL, ECONOMIC AND SOCIAL FACTORS THAT AFFECT THE ILLICIT DRUG PRODUCTION; (3) A DESCRIPTION OF THE METHODOLOGY EMPLOYED TO DETERMINE THE MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION; AND (4) AN ANALYSIS OF ANY ADDITIONAL US ASSISTANCE THAT WOULD BE REQUIRED TO ACHIEVE THOSE REDUCTIONS.

8.J. THE INFORMATION PROVIDED DURING SUCH CONSULTATIONS WILL BE PRINTED IN THE CONGRESSIONAL RECORD AND MAY BE THE SUBJECT OF HEARINGS BY THE TWO COMMITTEES.

9. THE SECOND MAJOR EFFECT OF THE HAWKINS-GILMAN AMENDMENT IS TO EXPAND THE PROVISION IN SEC. 481, FAA, CONCERNING SUSPENSION OF ECONOMIC AND MILITARY ASSISTANCE. AT PRESENT, THE PRESIDENT HAS THE SOLE DISCRETION TO MAKE SUCH A DETERMINATION, AND TO DEFINE WHAT CONSTITUTES "ADEQUATE STEPS" TO PREVENT SUCH DRUGS FROM BEING SMUGGLED INTO THE US. THIS SUBSECTION ALSO RE-EMPHASIZES ANOTHER POINT OF EXISTING LAW, THAT ANY SUCH CUT-OFFS WOULD ALSO TRIGGER INSTRUCTIONS FROM THE SECRETARY OF THE TREASURY TO US EXECUTIVE DIRECTORS ON THE MDBS (IBRD, IDA, IADB, AND ADB) TO VOTE AGAINST LOANS OR OTHER FUNDS FOR COUNTRIES UNDER SUSPENSION.

"ADEQUATE STEPS" THE PRESIDENT SHOULD CONSIDER INCLUDING (1) A DETERMINATION WHETHER THE ACTIONS OF THE GOVERNMENT HAVE RESULTED IN THE MAXIMUM REDUCTIONS IN ILLICIT DRUG PRODUCTION WHICH WERE PROJECTED FOR THE PRECEDING FISCAL YEAR; (2) WHETHER THE GOVERNMENT HAS TAKEN THE "LEGAL AND LAW ENFORCEMENT MEASURES" NEEDED TO ENFORCE, TO THE MAXIMUM EXTENT POSSIBLE, THE ELIMINATION OF ILLICIT CULTIVATION AND THE SUPPRESSION OF ILLICIT MANUFACTURE OF AND TRAFFIC IN NARCOTIC AND OTHER DRUGS, AS EVIDENCED BY SEIZURES OF SUCH DRUGS AND SUBSTANCES AND OF ILLICIT LABORATORIES AND THE ARREST AND PROSECUTION OF VIOLATORS INVOLVED IN THE TRAFFIC IN SUCH DRUGS AND SUBSTANCES SIGNIFICANTLY AFFECTING THE US.

9.B. THE AMENDMENT DEFINES "LEGAL AND LAW ENFORCEMENT MEASURES" TO MEAN THE ENACTMENT AND IMPLEMENTATION OF LAWS AND REGULATIONS TO PROVIDE FOR THE PROGRESSIVE CONTROL, REDUCTION, AND GRADUAL ELIMINATION OF THE ILLICIT CULTIVATION, PRODUCING, PROCESSING, TRANSPORTATION AND DISTRIBUTION OF NARCOTIC DRUGS AND OTHER CONTROLLED SUBSTANCES, AND, THE EFFECTIVE ORGANIZATION, STAFFING, EQUIPPING, FUNDING AND ACTIVATION OF THOSE GOVERNMENTAL AUTHORITIES RESPONSIBLE FOR NARCOTICS CONTROL.

9.C. IF ASSISTANCE IS SUSPENDED UNDER THIS PROVISION, THE SUSPENSION WILL CONTINUE UNTIL THE PRESIDENT REPORTS TO THE CONGRESS THAT SUCH COUNTRY HAS PREPARED, PRESENTED AND COMMITTED ITSELF TO A PLAN FOR THE CONTROL, REDUCTION AND GRADUAL ELIMINATION OF ILLICIT CULTIVATION, PRODUCTION, PROCESSING, TRANSPORTATION, AND DISTRIBUTION

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OF NARCOTIC AND OTHER DRUGS, WITHIN AN EXPLICITLY STATED PERIOD OF TIME, WITH IMPLEMENTATION OCCURRING BEFORE THE RESUMPTION OF ASSISTANCE. AS PART OF ITS PLAN, THE COUNTRY WOULD HAVE TO ADOPT AND IMPLEMENT THE "LEGAL AND LAW ENFORCEMENT MEASURES" DEFINED IN THIS AMENDMENT.

10. THE DEFINITION OF USG ASSISTANCE IN THIS AMENDMENT IS QUITE BROAD: "ASSISTANCE OF ANY KIND WHICH IS PROVIDED BY GRANT, SALE, LOAN, LEASE, CREDIT, GUARANTY, OR INSURANCE, OR BY ANY OTHER MEANS, BY ANY AGENCY OR INSTRUMENTALITY OF THE USG." THE AMENDMENT EXCLUDES NARCOTICS ASSISTANCE, DISASTER RELIEF, REFUGEE ASSISTANCE, FOOD AND MEDICINE, AND CERTAIN NATIONAL SECURITY AND INTELLIGENCE ACTIVITIES.

11. CONGRESSIONAL FINDINGS. THE AMENDMENT DOES AID THE DEPARTMENT BY INCORPORATING INTO STATUTE CERTAIN KEY PROVISIONS OF DEPARTMENTAL POLICY ON NARCOTICS CONTROL. THE COMPROMISE AMENDMENT NOTES THE OBLIGATIONS OF SIGNATORY COUNTRIES UNDER THE SINGLE CONVENTION, AND SAYS THAT THE INTERNATIONAL COMMUNITY SHOULD PROVIDE APPROPRIATE ASSISTANCE TO HELP COUNTRIES MEET THESE OBLIGATIONS. DEPARTMENTAL POLICY HAS EMPHASIZED BOTH OF THESE POINTS SINCE 1981. OF PARTICULAR IMPORTANCE IS A THIRD CLAUSE WHICH EMBODIES THE ESSENCE OF DEPARTMENTAL NARCOTICS POLICY: "INTERNATIONAL NARCOTICS CONTROL PROGRAMS SHOULD INCLUDE, AS A PRIORITY, THE PROGRESSIVE ELIMINATION OF THE ILLICIT CULTIVATION OF THE CROPS FROM WHICH NARCOTIC AND PSYCHOTROPIC DRUGS ARE DERIVED, AND SHOULD ALSO INCLUDE THE SUPPRESSION OF THE ILLICIT MANUFACTURE OF AND TRAFFIC IN NARCOTIC AND PSYCHOTROPIC DRUGS." WHILE IT IS QUITE HELPFUL TO HAVE CONGRESS ADOPT THAT POLICY IN STATUTE, ITS INCLUSION IMPOSES A REQUIREMENT THAT WE DEMONSTRATE THAT WE GIVE SUCH A PRIORITY IN OUR COUNTRY PROGRAMS. A FOURTH CLAUSE HOLDS THAT INTERNATIONAL COOPERATION IS ESSENTIAL, AND THEN SAYS THAT SUCH COOPERATION SHOULD INCLUDE THE DEVELOPMENT AND TRANSMITTAL OF PLANS BY SIGNATORY COUNTRIES WHICH ADVISE THE INTERNATIONAL NARCOTICS CONTROL BOARD, THE UN COMMISSION ON NARCOTIC DRUGS, AND THE INTERNATIONAL COMMUNITY OF THE STRATEGY, PROGRAMS, AND TIMETABLE SUCH COUNTRY HAS ESTABLISHED FOR THE "PROGRESSIVE ELIMINATION OF ILLICIT NARCOTICS CULTIVATION." WE WILL BE EXPECTED TO PROMOTE THE DEVELOPMENT OF SUCH PLANS AND THEIR SUBMISSION TO THE UNITED NATIONS.

12. FINALLY, THE AMENDMENT REQUIRES THE DEPARTMENT TO ENCOURAGE THE INTERNATIONAL NARCOTICS CONTROL BOARD AND THE UN COMMISSION ON NARCOTIC DRUGS TO TAKE NECESSARY ACTIONS TO SECURE FROM SIGNATORY COUNTRIES THE KINDS OF PLANS DESCRIBED IN THE AMENDMENT AS WELL AS REPORTS ON ACHIEVEMENTS.

13. THERE ARE NUMEROUS PROBLEMS WITH THIS AMENDMENT, PROBLEMS WHICH WARRANTED OUR OPPOSITION, AND PROBLEMS WE NOW ENCOUNTER IN TRYING TO IMPLEMENT IT.

13.A. FIRST, THERE IS THE PROBLEM OF CONSISTENCY. THE AMENDMENT CONTAINS TWO DIFFERENT PROVISIONS WHICH AFFECT THE SCOPE OF THE REPORTING. THE INFORMATION REQUIRED IN B.C. IS TO BE REPORTED ON FOR THOSE COUNTRIES WHICH ARE "SIGNIFICANT" SOURCES OF ILLICIT NARCOTICS AND OTHER DRUGS "SIGNIFICANTLY" AFFECTING THE US. UNDER THESE PROVISIONS, WE WOULD NOT REPORT, FOR EXAMPLE, ON THOSE AFRICAN COUNTRIES WHICH ARE SOURCES OF CANNABIS FOR EUROPE BUT NOT THE US. HOWEVER, THE HAWKINS DEFINITION OF "MAJOR" COUNTRIES REQUIRES THAT WE SUBMIT PRODUCTION ESTIMATES FOR ALL USG-ASSISTED COUNTRIES PRODUCING FIVE METRIC TONS OR MORE OF OPIUM OR OPIUM DERIVATIVE OR FIVE

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HUNDRED METRIC TONS OR MORE OF COCA OR MARIJUANA; FOR EACH SUCH COUNTRY, WE WOULD HAVE TO REPORT WHAT STEPS ARE BEING TAKEN TO PREVENT SUCH DRUGS FROM BEING CULTIVATED, PRODUCED OR PROCESSED, OR FROM BEING TRANSPORTED THROUGH SUCH COUNTRY TO USG PERSONNEL OR THEIR DEPENDENTS, OR FROM ENTERING THE US UNLAWFULLY. CONCEIVABLY, THIS COULD INCLUDE SEVERAL COUNTRIES WHOSE ILLICIT NARCOTICS ARE NOT EXPORTED TO THE US, AND MAY BE PREDOMINANTLY CONSUMED IN THE COUNTRIES OF ORIGIN.

13.B. WHILE THE AMENDMENT RETAINS THE DISCRETIONARY AUTHORITY OF THE PRESIDENT TO CONDUCT REVIEWS UNDER THESE PROVISIONS AND TO DETERMINE WHETHER ASSISTANCE SHOULD BE SUSPENDED, THE AMENDMENT CLEARLY SETS THE STAGE FOR DISPUTES WITH THE CONGRESS OVER WHETHER ADEQUATE STEPS HAVE BEEN TAKEN. THE PROBABILITY IS THAT CONGRESS, OR AT LEAST SOME MEMBERS, WILL LOOK TO THE PRODUCTION VS REDUCTION STATISTICS AS THE EXCLUSIVE TEST, WHICH THE AMENDMENT SAYS SHOULD BE "FOREMOST" AMONG THE PRESIDENT'S CONSIDERATIONS.

13.C. THE DEPARTMENT HAS TO BE PREPARED TO DEFEND CONTINUING USG ASSISTANCE, ON THE BASIS OF REDUCTIONS IN PRODUCTION, NOT ONLY TO COUNTRIES OF "SIGNIFICANCE" BUT ALSO TO THESE "MAJOR" COUNTRIES REGARDLESS OF WHETHER THEIR ILLICIT NARCOTICS PRODUCTION IS OF SIGNIFICANCE TO THE US. THERE IS SIMILAR INCONSISTENCY HERE. THE SECOND CRITERION THAT THE PRESIDENT IS TO CONSIDER, IN DETERMINING WHETHER TO SUSPEND ASSISTANCE TO A "MAJOR" COUNTRY, IS THE ADOPTION AND IMPLEMENTATION OF THOSE "LEGAL AND LAW ENFORCEMENT MEASURES" BUT THIS REVIEW IS ONLY FOR THOSE DRUGS "SIGNIFICANTLY" AFFECTING THE US.

13.D. COUNTRY NARCOTICS TEAMS AND AGENCIES WITHIN SOURCE COUNTRIES DO NOT HAVE IN PLACE THE REQUIRED TECHNOLOGICAL CAPABILITY TO GENERATE THE PRODUCTION ESTIMATES NEEDED, TO MONITOR REDUCTIONS, OR TO ASSESS IMPACT UPON AVAILABILITY IN THE US -- CERTAINLY NOT TO THE LEVEL OF PRECISION SUGGESTED BY THIS AMENDMENT. WHILE THE THRUST OF THE LANGUAGE SUGGESTS THE USG WILL DERIVE THE ESTIMATES WHICH THE PRESIDENT SUBMITS, THE SPONSORS AND SUPPORTERS ARE WELL AWARE FROM INM AND DEA TESTIMONY OF OUR NECESSARY RELIANCE ON HOST GOVERNMENT DATA. THE AMENDMENT DOES NOT INDICATE TO WHAT DEGREE, IF ANY, THE USG MUST VERIFY FOREIGN ESTIMATES.

13.E. THE AMENDMENT DOES NOT DEFINE "PRODUCTION." THE TERM COULD MEAN TONNAGE UNDER CULTIVATION, BUT, SINCE THE DEFINITION USES "OPIUM OR OPIUM DERIVATIVES" IT COULD ALSO MEAN REFINING COUNTRIES, LIKE TURKEY AND ITALY WHICH ARE SOURCES OF HEROIN. BUT, THE DEFINITION MENTIONS COCA WITHOUT MENTIONING COCA PASTE OR COCAINE, AND MENTIONS MARIJUANA BUT NOT OTHER CANNABIS PRODUCTS LIKE HASHISH. THERE IS ALSO THE PROBLEM THAT SOME REPORTING PROVISIONS APPLY ONLY TO PRODUCTION, WHILE OTHERS TAKE INTO CONSIDERATION ALL ASPECTS OF NARCOTICS CONTROL (CULTIVATION, PRODUCTION, MANUFACTURE OR REFINING, SALE, TRAFFICKING AND OTHER DISTRIBUTION). MOREOVER, THERE IS NO DEFINITION OF HOW REDUCTIONS ARE TO BE MEASURED, E.G., BY ACRES ERADICATED OR TAKEN OUT OF PRODUCTION, OR, BY PLANTS SEIZED OR DESTROYED. THIS LACK OF PRECISION NOT ONLY CLOUDS FURTHER THE ISSUE OF WHICH COUNTRIES ARE TO BE INCLUDED IN THE REPORT, BUT ALSO CONFOUNDS THE SUBSTANTIVE REPORTING PROBLEMS.

13.F. SEVERAL IMPORTANT NARCOTICS SOURCE COUNTRIES DO NOT CURRENTLY HAVE PLANS OR LONG-TERM STRATEGIES FOR BRINGING NARCOTICS PRODUCTION UNDER CONTROL.

13.G. THERE IS CONCERN, PARTICULARLY SINCE CONGRESS HAS

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JUST CONTINUED INM'S FUNDING AT THE \$41.2 MILLION LEVEL, NOT AT THE \$54 MILLION LEVEL REQUESTED, ABOUT POSSIBLE FINDINGS THAT GIVEN COUNTRIES DID NOT ADOPT THE NECESSARY "LEGAL AND LAW ENFORCEMENT MEASURES." THESE MEASURES INCLUDE A REQUIREMENT THAT THE COUNTRIES HAVE SUPPLIED THE EFFECTIVE ORGANIZATION, EQUIPPING AND FUNDING NEEDED FOR NARCOTICS CONTROL. THE CONCERN IS THAT SUCH REVIEWS WITH THE HOST GOVERNMENT WILL INEVITABLY LEAD TO EVEN GREATER DEMANDS ON THE USG FOR NARCOTICS ASSISTANCE, INCLUDING COUNTRIES WHOSE NARCOTICS PRODUCTION DOES NOT SIGNIFICANTLY AFFECT THE US.

14. BECAUSE OF PROBLEMS WITH THE PRODUCTION DATA ON HAND, THERE IS SOME UNCERTAINTY HERE AS TO WHICH COUNTRIES FALL UNDER THE DEFINITION OF "MAJOR." INM IS ATTEMPTING TO REFINE A LIST OF COUNTRIES FOR WHOM REPORTS WILL HAVE TO BE FILED, AND WILL ADVISE POSTS. WE DO NOT KNOW FOR CERTAIN HOW TO TREAT THE TRANSIT COUNTRIES, THE BAHAMAS FOR EXAMPLE, WHICH ARE NEITHER CULTIVATOR OR REFINER, AND DO NOT MEET THE DEFINITION OF "MAJOR" PRODUCER USED IN THE STATUTE. BUT, THE BAHAMAS, HAITI AND OTHER COUNTRIES ARE CERTAINLY INDIRECT SOURCES WHO RECEIVE USG ASSISTANCE, AND MAY WELL BE INCLUDED IN THE ANNUAL REPORT IF THEY ARE CONSIDERED "SIGNIFICANT" INDIRECT SOURCES. DURING DELIBERATIONS EARLIER IN THE YEAR ON THE GILMAN BILL, STAFF OF FOREIGN AFFAIRS SUGGESTED THE DEPARTMENT ERR ON THE SIDE OF INCLUDING THE BROADEST NUMBER OF CULTIVATING, REFINING AND TRANSIT COUNTRIES.

15. A REVIEW INDICATES THAT WE DO NOT HAVE SUFFICIENT INFORMATION IN THE ANSRS OR FROM OTHER SOURCES TO COMPLETE THE STRATEGY. WHEN CERTAIN DEFINITIONAL ISSUES HAVE BEEN CLARIFIED WITH THE CONGRESS, AND DEPARTMENT CLEARANCES OBTAINED, INM WILL SEND A FURTHER CABLE SETTING FORTH REQUESTS FOR ADDITIONAL INFORMATION, AND ESTABLISHING REPORTING REQUIREMENTS FOR THE FUTURE. DAM

END OF MESSAGE

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